

**Amendments to the Drawings:**

The drawing sheets attached in connection with the above-identified application containing Figures 1 and 2 are being presented as new formal drawing sheets to be substituted for the previously submitted drawing sheets. The drawing Figures 1 and 2 have been amended.

The specific changes which have been made to Figures 1 and 2 are that Applicant has amended Figure 1 to include the label Prior Art and Applicant has amended Figure 2 to include a legend identifying items 11, 12, 13 and 14.

**REMARKS**

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Figures 1 and 2 have been amended. Claims 1-26 remain pending in this application.

**Drawings**

Figure 1 was objected to for not being labeled --Prior Art--. In response, Applicant has amended Figure 1 to include the label Prior Art. Figure 2 was objected to for not having a legend to identify items 11, 12, 13 and 14. In response, Applicant has amended Figure 2 to include a legend identifying items 11, 12, 13 and 14. Accordingly, Applicant requests reconsideration of Figures 1 and 2 and that the objection be withdrawn.

**Claim Rejections under 35 U.S.C. § 103**

Claims 1-26 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,912,390 (“Anderson”) in view U.S. Patent No. 6,879,820 (“Bjelland”). In response, Applicant traverses the rejection for the reasons set forth below.

Applicant relies on MPEP § 2143, which requires that all the claim limitations be considered. Considering all the claim limitations as required by MPEP § 2143.03, the cited references do not identically disclose, teach or suggest all the claim limitations. *See In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).

Independent claims 1 and 5 are directed to a method of setting cell information in a radio access network. Independent claims 8 and 12 are directed to a radio access network having a radio network controller being physically divided into a device that deals with the control plane and at least one device that performs the user-plane process. Independent claims 15 and 19 are directed to a radio network controller physically divided into a device that deals with the control plane and at least one device that performs the user-plane process. Independent claims 22 and 23 are directed to a control-plane processing device. Independent claim 24 is directed to a user-plane processing device.

For example, the method of independent claim 1 includes a first step of holding in advance at least one item of cell information in said control-plane processing device, said cell information being the information to be held in common with said user-plane processing device that is under control of said control-plane processing device, a second step of requesting said cell information from said user-plane processing device to said control-plane processing device, and a third step of notifying said cell information to be held in common in both of said control-plane processing device and said user-plane processing device from said control-plane processing device to said user-plane processing device that has requested said cell information. Independent claims 5, 12, 15, 19 and 22-24 contain similar limitations.

For example, when a U-plane processing device under the control of a C-Plane processing device starts up, the C-Plane processing device transmits the cell information necessary to the U-plane device. As a result it is unnecessary to individually set the cell information in each U-plane processing device in the course of establishing a new cell. Further, inconsistency in settings between the C-Plane and U-Plane devices are eliminated. Accordingly, the claimed method and apparatus provides a radio access network that allows added or modified cell information to be reliably and easily set when a new cell is established in an environment where the radio network controller is divided into a C-Plane processing device and a U-plane processing device.

In contrast, Andersson and Bjelland do not disclose, teach or suggest each and every element recited in independent claims 1, 5, 12, 15, 19 and 22-24. Andersson is directed to connection handling in SRNC relocation. Page 4 of the Office Action acknowledges that Andersson fails to disclose teach or suggest “a first step of holding in advance at least one item of cell information in said control-plane processing device, said cell information being the information to be held in common with said user-plane processing device that is under control of said control-plane processing device, a second step of requesting said cell information from said user-plane processing device to said control-plane processing device, and a third step of notifying said cell information to be held in common in both of said control-plane processing device and said user-plane processing device from said control-plane processing device to said user-plane processing device that has requested said cell information” as claimed in claim 1.

To cure the deficiencies of Andersson, Applicant relies on Bjelland. Bjelland is directed to a method for facilitating charging for communication in a telecommunication network having split control planes and user planes. *See Abstract.* In contrast to the claimed subject matter, Bjelland teaches the steps of “sending, from the control-plane entity to the user-plane entity, an event in accordance with a media gateway control protocol. The event orders the user-plane entity to notify the control-plane entity when a predetermined volume of communication has occurred. The method further includes the steps of determining, by the user-plane entity, whether the predetermined volume has occurred, and notifying the control-plane entity when that has occurred.” *See Abstract.*

The Office Action cites Col. 8, lines 4-24 as disclosing steps one and two of the claimed invention. Applicant respectfully disagrees. Col. 8, lines 4-24 recite:

For volume-based charging, the Media Controller can send an Event to the Media Gateway, indicating the volume that can be transferred in this session before the Media Gateway must notify the Media Controller. It will be appreciated that the volume condition specified in the Event can be determined in a number of ways, e.g., based on pre-payment for service by a subscriber. It will be appreciated that in connection with a Statistics Descriptor an MG keeps a standard set of statistics for each Termination that may include for example the numbers of octets/packets sent and received.

When the Media Controller is notified by the Media Gateway that the condition(s) specified in the Event is/are fulfilled (e.g., a specified volume has been reached), the Media Controller can take appropriate action. For example, the Media Controller could repeat the whole procedure (setting a new Event or volume threshold for this session), or it could release the session, or it could notify another server/controller of the occurrence of the condition(s) specified in the Event.

The passage fails to disclose “a first step of holding in advance at least one item of cell information in said control-plane processing device, said cell information being the information to be held in common with said user-plane processing device that is under control of said control-plane processing device” or “a second step of requesting said cell information from said user-plane processing device to said control-plane processing device.” Further, it is

unclear how the passage relates to and discloses each and every element of independent claim 1.

The Office Action also cites Col. 10, lines 10-32 of Bjelland as disclosing the third step of claim 1. Col. 19, lines 10-32 recite:

FIG. 6 again shows the sequence for the case when a volume threshold is reached, and the Media Gateway has been told to report this to the Media Controller. Sequences for other conditions for which the Media Controller should be notified are substantially the same as that depicted in FIG. 6. For example, reaching a time threshold may initiate the reporting instead of the arrival of a user plane octet/packet. If the Media Gateway is not pre-provisioned with the Event, the Media Controller sends/sets the Event (step 1) to indicate for the Media Gateway when to report charging-related data; alternatively, the Event can be pre-provisioned in the Media Gateway. User plane packets are transferred (steps 2a, 2b, 2c) and when the Media Gateway determines that the event has occurred (e.g., the volume threshold is reached), it provides the required data to the Media Controller.

Advantages of this approach are its simplicity and the minimization of the number of parameters that are exchanged by the Media Gateway and the Media Controller as the Media Controller knows most of these. Also, the handling of a CDR is limited to residing in the Media Controller (or alternatively in an external node), and the Media Controller is more suitable for storing such data.

Again, this passage fails to identically disclose “a third step of notifying said cell information to be held in common in both of said control-plane processing device and said user-plane processing device from said control-plane processing device to said user-plane processing device that has requested said cell information.”

Accordingly, Applicant respectfully requests that the rejection be withdrawn and independent claims 1, 5, 12, 15, 19 and 22-24 be allowed. Further, claims 2-4, 6-11, 13, 14, 16-18, 20, 21, 25 and 26 depend from one of claims 1, 5, 12, 15, 19 or 24 and should be allowed for the reasons set forth above.

If this rejection of the claims is maintained, the examiner is respectfully requested to point out where the above-mentioned features are disclosed in Andersson and Bjelland.

Further, since Bjelland discloses the communication of events between a control-plane and user-plane, one of ordinary skill in the art would not have looked to combine Andersson with Bjelland to arrive at the claimed subject matter. The Supreme Court in the *KSR Int'l Co. v. Teleflex, Inc.*,” 127 S.Ct. 1727 (U.S. 2007), recently clarified the standards for obviousness. For example, the Court has stated that “a patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the art...it can be important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does.” *KSR* at 1741. In addition, the Court in *KSR* stated that a reason to combine elements should be made explicit. *Id.* at 1740-41.<sup>1</sup> Indeed, the Court approvingly cited *In re Kahn*, 441 F.3d 977 (Fed. Cir. 2006), for requiring an articulated reason. *Id.* at 1741.<sup>2</sup>

In this present case, no reason has been provided other than the very broad statement of “facilitating the network communication” without any supporting reasoning, teaching, or evidence to support how the combination of Bjelland and Andersson discloses the claimed subject matter. Because the PTO has not provided sufficient reasons to combine the teachings of Bjelland and Andersson, any rejection based on this combination is improper.

### **Conclusion**

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

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<sup>1</sup> “Often, it will be necessary for a court to look to interrelated teachings of multiple patents; the effects of demands known to the design community or present in the marketplace; and the background knowledge possessed by a person having ordinary skill in the art, all in order to determine whether there was an apparent reason to combine the known elements in the fashion claimed by the patent at issue. To facilitate review, this analysis should be made explicit.” *Id.* at 1740-41.

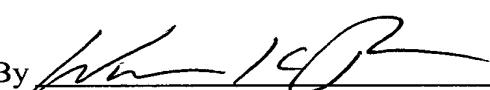
<sup>2</sup> “Rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness” *Id.* at 1741.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing or a credit card payment form being unsigned, providing incorrect information resulting in a rejected credit card transaction, or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. § 1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date 8/29/08

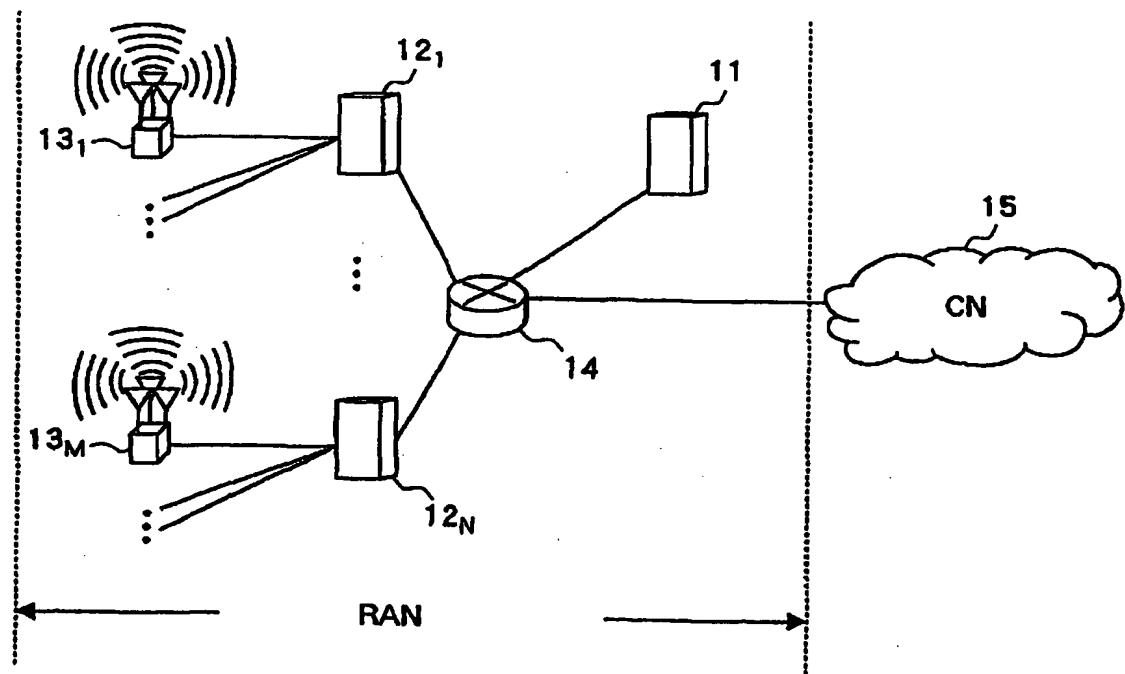
By 

FOLEY & LARDNER LLP  
Customer Number: 22428  
Telephone: (202) 295-4623  
Facsimile: (202) 672-5399

George C. Beck  
Attorney for Applicant  
Registration No. 38,072

Walter K. Robinson  
Attorney for Applicant  
Registration No. 59,396

Fig. 2



11: C-plane processing device

12: U-plane processing device

13: NodeB

14: Router

15: Core Network (CN)